

**Senate State & Local Government Committee Amendment No. 1**

**Amendment No. 1 to SB3172**

**Cohen**  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

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by deleting all language in its entirety following the enacting clause and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Title 58, Chapter 2, is amended by deleting parts 1, 5 and 6 in their entirety, and by substituting instead the following language:

**PART 1**

**58-2-101 Definitions.**

As used in this chapter, unless the context otherwise requires:

(1) "Agency" means the Tennessee Emergency Management Agency.

(2) "CLEO" means chief local elected official.

(3) "Compacts" means the emergency management compacts included in parts 4 and 7 of this chapter.

(4) "Disaster" means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state emergency by a county, the Governor, or the President of the United States. Disaster shall be identified by the severity of resulting damage, as follows:

(A) "Catastrophic disaster" means a disaster that will require massive state and federal assistance, including immediate military involvement.

(B) "Major disaster" means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance.

(C) "Minor disaster" means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance.

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(5) "EMA" means a local emergency management agency of a political subdivision.

(6) "Emergency" means an occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

(7) "Emergency management" means the preparation for, the mitigation of, the response to, and the recovery from emergencies and disasters. Specific emergency management responsibilities include, but are not limited to:

(A) Reduction of vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural, technological, or manmade emergencies or hostile military or paramilitary action.

(B) Preparation for prompt and efficient response and recovery to protect lives and property affected by emergencies.

(C) Response to emergencies using all systems, plans, and resources necessary to preserve adequately the health, safety, and welfare of persons or property affected by the emergency.

(D) Recovery from emergencies by providing for the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies.

(E) Provision of an emergency management system embodying all aspects of pre-emergency preparedness and post-emergency response, recovery, and mitigation.

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(F) Assistance in anticipation, recognition, appraisal, prevention, and mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.

(8) "Emergency Management Preparedness and Assistance Trust Fund" means a trust fund to be administered solely by the Tennessee Emergency Management Agency. All funds collected by the state and placed in this trust fund shall be designated for emergency management purposes only.

(9) "Emergency Services Coordinator" or "ESC" means the person/persons selected by the head of each executive branch agency or Commissioner designated by the Governor and includes Alternates. The ESC and an Alternate will be responsible for coordinating with the agency on emergency preparedness issues, preparing and maintaining emergency preparedness and post disaster response and recovery plans for their agency, maintaining rosters of personnel to assist in disaster operations, and coordinating appropriate training for agency personnel.

(10) "Energy Emergency" means a condition of danger to the health, safety, welfare, or economic well being of the citizens of the state of Tennessee arising out of a present or threatened shortage of usable energy resources; also any condition of substantial danger to the health, safety, or welfare of the citizens of Tennessee resulting from the operation of any electrical power generating facility, the transport of any energy resource by any means whatsoever, or the production, use or disposal of any source material, special nuclear material, or by-product material as defined by the Atomic Energy Act of 1954, 68 Stat. 919, 42 U.S.C. §§ 2011-2394; also any nuclear incident, as

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defined by the Atomic Energy Act of 1954, occurring within or without the state of Tennessee, substantially affecting the health, safety, or welfare of the citizens of this state.

(11) "Energy resources" includes all forms of energy or power, including without limitation, oil, gasoline, and other petroleum products; natural or synthetic gas; electricity in all forms and from all sources; and other fuels of any description.

(12) "Entity" includes firm, business, for profit and not for profit corporation, profit and not for profit unincorporated association, partnership, and two (2) or more persons having a joint or common economic interest.

(13) "GAR" means Governor's Authorized Representative.

(14) "Local emergency management agency" means an organization created in accordance with the provisions of this chapter to discharge the emergency management responsibilities and functions of a political subdivision.

(15) "Manmade emergency" means an emergency caused by an action against persons or society, including, but not limited to, enemy attack, sabotage, terrorism, civil unrest, or other action impairing the orderly administration of government.

(16) "Mobile Reserve Unit" means an organization for emergency management created in accordance with the provisions of this chapter by state or local authority to be dispatched by the Governor to supplement local organizations for emergency management in a stricken area.

(17) "Natural emergency" means any emergency caused by a natural event, including, but not limited to, a storm, a flood, a drought, or an earthquake.

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(18) "Person" includes a natural person or entity organized under the laws of this state or any other state or territory of the United States or the federal government, as the case may be, and shall include both the singular and plural.

(19) "Political subdivision" means any municipality or county, including any county having metropolitan form of government, created pursuant to law.

(20) "SCO" means State Coordinating Officer.

(21) "Technological emergency" means an emergency caused by a technological failure or accident, including, but not limited to, an explosion, transportation accident, radiological accident, or chemical or other hazardous material incident.

(22) "TEMP" means Tennessee Emergency Management Plan.

**58-2-102 Legislative intent.**

(a) The Legislature finds and declares that the state is vulnerable to a wide range of emergencies, including natural, technological, terrorist acts, and manmade disasters, all of which threaten the life, health, and safety of its people; damage and destroy property; disrupt services and everyday business and recreational activities; and impede economic growth and development. The Legislature further finds that this vulnerability is exacerbated by the growth in the state's population, in the elderly population, in the number of seasonal vacationers, and in the number of persons with special needs. This growth has greatly complicated the state's ability to coordinate its emergency management resources and activities.

(b) It is the intent of the Legislature to reduce the vulnerability of the people and property of this state; to prepare for efficient evacuation or shelter-in-place of threatened

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or affected persons; to provide for the rapid and orderly provision of relief to persons and for the restoration of services and property; and to provide for the coordination of activities relating to emergency preparedness, response, recovery, and mitigation among and between agencies and officials of this state, with similar agencies and officials of other states, with local and federal governments, with interstate organizations, and with the private sector.

(c) It is further the intent of the Legislature to promote the state's emergency preparedness, response, recovery, and mitigation capabilities through enhanced coordination, long-term planning, and adequate funding. State policy for responding to disasters is to support local emergency response efforts. In the case of a major or catastrophic disaster, however, the needs of residents and communities will likely be greater than local resources. In these situations, the state must be capable of providing effective, coordinated, and timely support to communities and the public. Therefore, the Legislature hereby determines and declares that the provisions of this act fulfill an important state interest.

**58-2-103 Policy and purpose.**

(a) Because of the existing and continuing possibility of the occurrence of emergencies and disasters resulting from natural, technological, or manmade causes, including acts of terrorism and the recovery therefrom; in order to ensure that preparations of this state will be adequate to deal with, reduce vulnerability to, and recover from such emergencies and disasters; to provide for the common defense and

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to protect the public peace, health, and safety; and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:

(1) To create a state emergency management agency to be known as the "Tennessee Emergency Management Agency", to authorize the creation of local organizations for emergency management in the political subdivisions of the state, and to authorize cooperation with the Federal Government and the governments of other states.

(2) To confer upon the Governor, the Tennessee Emergency Management Agency (TEMA), and the governing body of each political subdivision of the state the emergency powers provided herein.

(3) To provide for the rendering of mutual aid among the political subdivisions of the state, with other states, and with the Federal Government with respect to carrying out all emergency management functions and responsibilities.

(4) To authorize the establishment of such organizations and the development and employment of such measures as are necessary and appropriate to carry out the provisions of this chapter.

(5) To provide the means to assist in the prevention or mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use, not to exclude flood plain management.

(b) It is further declared to be the purpose of this act and the policy of the state that all emergency management functions of the state be coordinated to the maximum

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extent with comparable functions of the Federal Government, including its various departments, agencies of other states and localities, and private agencies of every type, to the end that the most effective preparation and use may be made of the manpower, resources, and facilities of the nation for dealing with any emergency that may occur.

**58-2-104 Creation of agency - director and deputies.**

(a) The Governor is hereby authorized and directed to create a state agency to be known as the "Tennessee Emergency Management Agency" (TEMA) under the adjutant general for day-to-day administrative purposes and, upon the recommendation of the adjutant general to appoint a director of the TEMA, who shall be the administrator thereof. The director shall hold office during the pleasure of the Governor, and shall receive such salary as is fixed by the adjutant general and approved by the Governor. The agency shall authorize the creation of local organizations for emergency management in the political subdivisions of the state, and authorize cooperation with the Federal Government and the governments of other states.

(b) The Governor is hereby authorized to appoint such deputy directors of the agency as the Governor may in the exercise of his sound discretion deem necessary, and such directors, in the discretion of the Governor and upon the recommendation of the adjutant general, may be state employees who shall serve in such capacity without additional compensation.

(c) The director, subject to the direction and control of the Governor, acting through the adjutant general, shall be the executive head of the agency and shall be



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responsible to the Governor for carrying out the program for the Tennessee Emergency Management Agency for the state of Tennessee. The director shall coordinate the activities of all organizations for the agency within the state and shall maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the Federal Government. For normal day-to-day administrative functions, the director shall report to the adjutant general. During emergency conditions, the agency and director shall report to the Governor or the Governor's designee. General coordination with the adjutant general shall be maintained. The department of the military shall become a resource for the state as with all other departments and agencies; further the director shall make recommendations to the Governor for the use of the national guard and other state resources as disaster conditions mandate, including but not limited to the assistance of local and private agencies. The director shall coordinate with the Governor's office on the activation or the potential activation of any mutual aid agreement or compact.

(d) The adjutant general, upon the recommendation of the director, may employ such area directors, professional, technical, clerical, stenographic, and other personnel, and he shall fix their compensation and may make expenditures from available funds appropriated for the military department of the state or from funds made available to him for purposes of emergency management, as may be necessary to carry out the purposes of this chapter. The director shall be provided with necessary and appropriate office space, furniture, supplies, stationery, printing

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and equipment, including but not limited to, radio, radiological and any and all other proper equipment necessary to carry out the emergency management program for the state. The necessary mileage, office expenses, salaries of personnel, postage, telephone and expressage shall be chargeable to any funds available for emergency management.

**58-2-105 Limitations.**

Nothing in this chapter shall be construed to:

(1) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety.

(2) Interfere with dissemination of news or comment on public affairs; but any communications facility or organization, including, but not limited to, radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with an emergency.

(3) Affect the jurisdiction or responsibilities of police forces, firefighting forces, units of the Armed forces of the United States, or any personnel thereof, when on active duty; state, local, and interjurisdictional emergency plans shall place reliance upon the forces available for performance of functions related to emergencies.

(4) Limit, modify, or abridge the authority of the Governor to proclaim martial law or exercise any other powers vested in the Governor under the constitution, statutes, or

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common law of this state independent of, or in conjunction with, any provisions of this chapter.

**58-2-106 Emergency management powers.**

(a) The agency is responsible for maintaining a comprehensive statewide program of emergency management. The agency is responsible for coordination with efforts of the Federal Government with other departments and agencies of state government, county governments, municipal governments and school boards, and private agencies that have a role in emergency management. The director of the agency shall be the State Coordinating Officer (SCO) and the Governor's Authorized Representative (GAR).

(b) The agency is responsible for carrying out the provisions of this chapter. In performing its duties under this chapter, the agency shall:

(1) Prepare a TEMP (Tennessee Emergency Management Plan) and maintain an accountable ESC program, which shall be integrated into and coordinated with the emergency management plans and programs of the Federal Government. The plan shall be implemented by a continuous, integrated comprehensive emergency management program. The plan must contain provisions to ensure that the state is prepared for emergencies and minor, major, and catastrophic disasters, and the agency shall work closely with local governments and agencies and organizations with emergency management responsibilities in preparing and maintaining the plan. The TEMP shall be planning, response, recovery and mitigation oriented and shall include the following:

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(A) An evacuation component that includes specific regional and interregional planning provisions and promotes intergovernmental coordination of evacuation activities.

(B) A shelter component that includes specific regional and interregional planning provisions and promotes coordination of shelter activities between the public, private, and nonprofit sectors.

(C) A postdisaster response and recovery component that includes specific regional and interregional planning provisions and promotes intergovernmental coordination of postdisaster response and recovery activities. This component must provide for postdisaster response and recovery strategies according to whether a disaster is minor, major, or catastrophic. The postdisaster response and recovery component must, at a minimum:

(i) establish the structure of the state's postdisaster response and recovery organization;

(ii) establish procedures for activating the state's plan;

(iii) set forth policies used to guide postdisaster response and recovery activities;

(iv) describe the chain of command during the postdisaster response and recovery period;

(v) describe initial and continuous postdisaster response and recovery actions;

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(vi) identify the roles and responsibilities of each involved agency and organization;

(vii) provide for a comprehensive communications plan;

(viii) establish procedures for monitoring mutual aid agreements;

(ix) provide for assessment teams;

(x) ensure the availability of an effective statewide urban search and rescue program coordinated with the fire services;

(xi) ensure the existence of a comprehensive statewide medical care plan; and

(xii) establish systems for coordinating volunteers and accepting and distributing donated funds and goods.

(D) Additional provisions addressing aspects of preparedness, response, recovery, and mitigation as determined necessary by the agency.

(E) Address the need for coordinated and expeditious deployment of state resources, including the Tennessee National Guard and requesting of federal assets.

(F) Establish a system of communications and warning to ensure that the state's population and emergency management agencies are warned of developing emergency situations and can communicate emergency response decisions.

(G) Establish guidelines and schedules for exercises that evaluate the ability of the state and its political subdivisions to respond to minor, major, and

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catastrophic disasters and support local emergency management agencies.

Such exercises shall be coordinated with local governments and, to the extent possible, the Federal Government.

(H) Assign lead and support responsibilities to state agencies and personnel for emergency support functions and other support activities.

(2) Adopt standards and requirements for county emergency management plans. The standards and requirements must ensure that county plans are coordinated and consistent with the TEMP. If a municipality elects to establish an emergency management program, it must adopt a city emergency management plan that complies with all standards and requirements applicable to county emergency management plans.

(3) Assist political subdivisions in preparing and maintaining emergency management plans.

(4) Review periodically political subdivision emergency management plans for consistency with the TEMP and standards and requirements adopted under this section.

(5) Cooperation with the President of the United States, the heads of the Armed Forces, the various federal emergency management agencies, and the officers and agencies of other states in matters pertaining to emergency management in the state and the nation and incidents thereof and, in connection therewith, take any measures that it deems proper to carry into effect any request of

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the President and the appropriate federal officers and agencies for any emergency management action, including the direction or control of:

(A) Emergency management drills, tests, or exercises of whatever nature.

(B) Warnings and signals for tests and drills, attacks, or other imminent emergencies or threats thereof and the mechanical devices to be used in connection with such warnings and signals.

(6) Make recommendations to the Legislature for preparedness, prevention, and mitigation measures designed to eliminate emergencies or reduce their impact.

(7) In accordance with the TEMP and program for emergency management, ascertain the requirements of the state and its political subdivisions for equipment and supplies of all kinds in the event of an emergency; plan for and either procure supplies, medicines, materials, and equipment or enter into memoranda of agreement or open purchase orders that will ensure their availability; and use and employ from time to time any of the property, services, and resources within the state in accordance with this chapter.

(8) Anticipate trends and promote innovations that will enhance the emergency management system.

(9) Institute statewide public awareness programs. This shall include an intensive public educational campaign on emergency preparedness issues.

(10) Prepare and distribute to appropriate state and local officials catalogs of federal, state, and private assistance programs.

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(11) Coordinate federal, state, and local emergency management activities and take all other steps, including the partial or full mobilization of emergency management forces and organizations in advance of an actual emergency, to ensure the availability of adequately trained and equipped forces of emergency management personnel before, during, and after emergencies and disasters.

(12) Implement training programs to improve the ability of state and local emergency management personnel to prepare and implement emergency management plans and programs. This shall include a continuous training program for agencies and individuals that will be called on to perform key roles in state and local postdisaster response and recovery efforts and for local government personnel on federal and state postdisaster response and recovery strategies and procedures.

(13) Review periodically emergency operating procedures of state agencies and recommend revisions as needed to ensure consistency with the TEMP and program.

(14) Make such surveys of industries, resources, and facilities within the state, both public and private, as are necessary to carry out the purposes of this chapter.

(15) Prepare, in advance whenever possible, such executive orders, proclamations, and rules for issuance by the Governor as are necessary or appropriate for coping with emergencies and disasters.



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(16) Cooperate with the Federal Government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for mitigation, preparation, response, and recovery.

(17) Delegate, as necessary and appropriate, authority vested in it under this chapter and provide for the subdelegation of such authority.

(18) Create, implement, administer, promulgate, amend, and rescind rules, programs, and plans needed to carry out the provisions of this chapter with due consideration for, and in cooperation with, the plans and programs of the Federal Government.

(19) Do other things necessary, incidental, or appropriate for the implementation of this chapter.

**58-2-107 Emergency management powers of the Governor.**

(a)(1) The Governor is responsible for addressing the dangers presented to this state and its people by emergencies. In the event of an emergency beyond local control, the Governor, or, in his absence, the Governor's successor as provided by law, may assume direct operational control over all or any part of the emergency management functions within this state, and such person shall have the power through proper process of law to carry out the provisions of this chapter. The Governor is authorized to delegate such powers as the Governor may deem prudent.

(2) Pursuant to the authority vested in the Governor under subsection (a)(1), the Governor may issue executive orders, proclamations, and rules and may amend

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or rescind them. Such executive orders, proclamations, and rules shall have the force and effect of law.

(b) The Governor or the Governor's designee, shall declare a state of emergency or a disaster declaration in one of two ways:

- (1) By executive order or proclamation; or
- (2) By the activation of the TEMP.

These two types of threats may be declared by the Governor if the Governor finds an emergency has occurred or the occurrence of threat thereof is imminent. The state of emergency shall continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and the Governor terminates the state of emergency by executive order or proclamation, but no state of emergency may continue for longer than sixty (60) days unless renewed by the Governor. All executive orders or proclamations issued under this section shall indicate the nature of the emergency, the area or areas threatened, and the conditions which have brought the emergency about or which make possible its termination. An executive order or proclamation shall be promptly disseminated by means calculated to bring its contents to the attention of the general public; and, unless the circumstances attendant upon the emergency prevent or impede such filing, the order or proclamation shall be filed promptly with the Department of State and in the office of the chief executive officer in each county to which the order or proclamation applies.

(c) An executive order or proclamation of a state of emergency shall:

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(1) Activate the emergency mitigation, response, and recovery aspects of the state, local, and interjurisdictional emergency management plans applicable to the political subdivision or area in question;

(2) Be authority for the deployment and use of any forces to which the plan or plans apply and for the use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to emergencies; and

(3) Identify whether the state of emergency is due to a minor, major, or catastrophic disaster.

(d) During the continuance of a state emergency, the Governor is commander in chief of the Tennessee National Guard and of all other forces available for emergency duty. To the greatest extent practicable, the Governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or rules, but nothing herein restricts the Governor's authority to do so by orders issued at the time of the emergency.

(e) In addition to any other powers conferred upon the Governor by law, the Governor may:

(1) Suspend the provisions of any law, order, rule or regulation prescribing the procedures for conduct of state business or the orders or rules or regulations of any state agency, if strict compliance with the provisions of any such law, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency.

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(2) Utilize all available resources of the state government and of each political subdivision of the state, as reasonably necessary to cope with the emergency.

(3) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services.

(4) Subject to any applicable requirements for compensation, commandeer or utilize any private property if the Governor finds this necessary to cope with the emergency.

(5) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the Governor deems this action necessary for the preservation of life or other emergency mitigation, response, or recovery.

(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation.

(7) Control ingress and egress to and from an emergency area, the movement of persons within the area, and the occupancy of premises therein.

(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.

(9) Make provision for the availability and use of temporary emergency housing.

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(10) Take effective measures for limiting or suspending lighting devices and appliances, gas and water mains, electric power distribution, and all other utility services in the general public interest.

(11) Take measures concerning the conduct of civilians, the movement and cessation of movement of pedestrian and vehicular traffic prior to, during, and subsequent to drills and actual or threatened emergencies, the calling of public meetings and gatherings, and the evacuation and reception of civilian population, as provided in the TEMP and political subdivisions thereof.

(12) Authorize the use of forces already mobilized as the result of an executive order, rule, or proclamation to assist the private citizens of the state in clean up and recovery operations during emergencies when proper permission to enter onto or into private property has been obtained from the property owner.

(f) The Governor shall take such action and give such direction to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this chapter and with the orders and rules made pursuant thereto.

(g) The Governor shall employ such measures and give such directions to the Department of Health and Department of Human Services, Division of Vocational Rehabilitation, as may be reasonable and necessary for the purpose of securing compliance with the provisions of this chapter or with the findings or recommendations of such agency by reason of conditions arising from emergencies or threats of emergency.

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(h) The Governor shall delegate emergency responsibilities to the officers and agencies of the state and of the political subdivisions thereof prior to an emergency or threat of an emergency and shall utilize the services and facilities of existing officers and agencies of the state and of the political subdivisions thereof, including their personnel and other resources, as the primary emergency management forces of the state, and all such officers and agencies shall cooperate with and extend their services and facilities to the agency, as it may require.

(i) The Governor and the agency shall establish agencies and offices and appoint executive, professional, technical, clerical and other personnel as may be necessary to carry out the provisions of this chapter.

(j) The Governor shall formulate and execute plans and rules for the control of traffic in order to provide for the rapid and safe movement or evacuation over public highways and streets of people, troops, or vehicles and materials for national defense or for use in any defense industry and may coordinate the activities of the departments or agencies of the state and the political subdivisions thereof concerned directly or indirectly with public highways and streets in a manner which will effectuate such plans.

**58-2-108 Designation of emergency services coordinators.**

(a) At the direction of the Governor, the head of each executive department and independent agency shall select from within such department or agency a person to be designated as the emergency services coordinator (ESC) for the department or agency along with an alternate ESC.

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(b) The emergency services coordinator is responsible for coordinating with the Tennessee Emergency Management Agency and reporting to that agency on emergency preparedness issues, preparing and maintaining emergency preparedness and postdisaster response and recovery plans for their agency, maintaining rosters of personnel to assist in disaster operations, and coordinating appropriate training for agency personnel.

(c) These individuals shall be responsible for ensuring that each state facility, such as a prison, office building, or university, has a disaster preparedness plan that is reviewed by the applicable local emergency management agency and approved by TEMA.

(d) The head of each department or agency shall notify TEMA, in writing, of the person initially designated as the ESC for such agency and their alternate, and of any changes in persons so designated thereafter.

(e) Upon the designation of the ESC, the department or agency shall provide the necessary equipment to the ESC as prescribed by TEMA for the performance of the duties of the ESC.

(f) TEMA shall, in consultation with the Tennessee Department of Personnel, develop a mechanism to provide for a salary supplement for the appointed ESC, subject to available funding.

(g) TEMA shall notify the Governor of compliance with this section.

**58-2-109 Financing.**

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(a) It is the intent of the Legislature and declared to be the policy of this state that funds to prepare for and meet emergencies shall always be available.

(b) It is the intent of the Legislature that the first recourse shall be to annually fund a state emergency management agency. If the Governor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, the Governor may, as otherwise provided by law, make funds available by transferring and expending moneys appropriated for other purposes or out of any unappropriated surplus funds.

(c) Nothing contained in this section shall be construed to limit the authority of the Governor to apply for, administer, and expend any grants, gifts, or payments in aid of emergency prevention, mitigation, preparedness, response, or recovery.

(d) Whenever any person, firm, or corporation offers to the state or to any political subdivision thereof services, equipment, supplies, materials, or funds by way of gift, grant, loan or other agreement for the purpose of emergency management, the state, acting through the agency, or such political subdivision, acting through its governing body or a local emergency management agency, may accept such offer. Upon such acceptance, the agency or the presiding officer of the governing body of the political subdivision may authorize receipt of the gift, grant, or loan on behalf of the state or such political subdivision, subject to the terms of the offer.

**58-2-110 Emergency management powers of political subdivisions.**

Safeguarding the life and property of its citizens is an innate responsibility of the governing body of each political subdivision of the state.



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**(1) COUNTIES.**

(a) In order to provide effective and orderly governmental control and coordination of emergency operations in emergencies within the scope of this chapter, each county within this state shall be within the jurisdiction of, and served by, TEMA. Except as otherwise provided in this chapter, each local emergency management agency shall have jurisdiction over and serve an entire county. Unless part of an interjurisdictional emergency management agreement entered into pursuant to division (3)(b) of this section which is recognized by the Governor by executive order or rule, each county must establish and maintain such an emergency management agency and shall develop a county emergency management plan and program that is coordinated and consistent with the TEMP and program.

(b) Each county emergency management agency created and established pursuant to this chapter shall have a director who shall be appointed and have the director's annual salary fixed by the local governing body. The director must meet the minimum training and education qualifications established in a job description approved by the county. The director shall be appointed by the CLEO and, if required, approved by the governing body of the county. Each CLEO shall promptly inform TEMA of the appointment of the director and other personnel. Each director has direct responsibility for the organization, administration, and operation of the county emergency management agency, subject only to the direction and control of the governing body of the county and shall serve as liaison to TEMA and other local emergency management agencies and organizations.

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(c) Each county emergency management agency shall perform emergency management functions within the territorial limits of the county within which it is organized and, in addition, shall conduct such activities outside its territorial limits of the county within which it is organized as are required pursuant to this chapter and in accordance with state and county emergency management plans and mutual aid agreements. A county shall serve as liaison for and coordinate the requests of municipalities located within such county for state and federal assistance during postdisaster emergency operations.

**(2) MUNICIPALITIES.**

Legally constituted municipalities are authorized and encouraged to create municipal emergency management programs. Municipal emergency management programs shall coordinate their activities with those of the county emergency management agency. Municipalities without emergency management programs shall be served by their respective county agencies. If a municipality elects to establish an emergency management program, it must comply with all laws, rules, and regulations applicable to county emergency management agencies. Each municipal emergency management plan must be consistent with and subject to the applicable county emergency management plan. In addition, each municipality must coordinate requests for state or federal emergency response assistance with its county. This requirement does not apply to requests for reimbursement under federal public disaster assistance programs.

**(3) EMERGENCY MANAGEMENT POWERS; POLITICAL SUBDIVISIONS.**

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(a) In carrying out the provisions of this chapter, each political subdivision shall have the power and authority to:

(1) Appropriate and expend funds; make contracts; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any emergency; and direct and coordinate the development of emergency management plans and programs in accordance with the policies and plans set by the federal and state emergency management agencies.

(2) Appoint, employ, remove, or provide, with or without compensation, coordinators, rescue teams, fire and police personnel, and other emergency management workers.

(3) Establish, as necessary, a primary and one or more secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

(4) Assign and make available for duty the offices and agencies of the political subdivision, including the employees, property, or equipment thereof relating to firefighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency operation purposes, as the primary emergency management forces of the political subdivision for employment within or outside the political limits of the subdivision.

(5) Request state assistance or invoke emergency-related mutual-aid assistance by declaring a state of local emergency in the event of an emergency

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affecting only one political subdivision. The duration of each state of emergency declared locally is limited to seven (7) days; it may be extended, as necessary, in seven (7) day increments. Further, the political subdivision has the power and authority to waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:

(A) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community.

(B) Entering into contracts.

(C) Incurring obligations.

(D) Employment of permanent and temporary workers.

(E) Utilization of volunteer workers.

(F) Rental of equipment.

(G) Acquisition and distribution, with or without compensation, of supplies, materials, and facilities.

(H) Appropriation and expenditure of public funds.

(b) Upon the request of two (2) or more adjoining counties, or if the Governor finds that two (2) or more adjoining counties would be better served by an interjurisdictional arrangement than by maintaining separate emergency management agencies and service, the Governor may delineate by executive order or rule an interjurisdictional area adequate to plan for, prevent, mitigate, or respond to emergencies in such area and may direct steps to be taken as necessary, including the creation of an interjurisdictional relationship, a joint emergency plan, a provision for

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mutual aid, or an area organization for emergency planning and services. A finding of the Governor pursuant to this subsection shall be based on one or more factors related to the difficulty of maintaining an efficient and effective emergency prevention, mitigation, preparedness, response, and recovery system on a unjurisdictional basis, such as:

(1) Small or sparse population.

(2) Limitations on public financial resources severe enough to make maintenance of a separate emergency management agency and services unreasonably burdensome.

(3) Unusual vulnerability to emergencies as evidenced by a past history of emergencies, topographical features, drainage characteristics, emergency potential, and presence of emergency-prone facilities or operations.

(4) The interrelated character of the counties in a multicounty area.

(5) Other relevant conditions or circumstances.

**58-2-111 Local Services.**

(a) Whenever the employees of any political subdivision are rendering outside aid pursuant to the authority contained in this section, such employees shall have the same powers, duties, rights, privileges, and immunities as if they were performing their duties in the political subdivisions in which they are normally employed.

(b)

(1) The political subdivision in which any equipment is used pursuant to this section shall be liable for any loss or damage thereto and shall pay any expense incurred in the operation and maintenance thereof. No claim for such

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loss, damage, or expenses shall be allowed unless an itemized notice of such claim under oath is served by mail or otherwise upon the chief fiscal officer of the political subdivision in which the equipment was used within sixty(60) days after the loss, damage, or expense is sustained or incurred.

(2) The political subdivision which is aided pursuant to this section shall also pay and reimburse the political subdivision furnishing such aid for compensation paid to employees furnished under this section during the time of the rendition of such aid and shall defray the actual travel and maintenance expenses of such employees while they are rendering such aid or any negotiated repayment, to include any compensation due for personal injury or death occurring while such employees are engaged in rendering such aid. The term "employee" as used in this section means, and the provisions of this section apply with equal effect to, paid, volunteer, and auxiliary employees and emergency management services workers.

**58-2-112 Mutual-aid agreements.**

The governing body of each political subdivision of the state is authorized to develop and enter into mutual-aid agreements within the state for reciprocal emergency aid and assistance in case of emergencies too extensive to be dealt with unassisted. Copies of such agreements shall be sent to TEMA. Such agreements shall be consistent with the TEMP and program, and in time of emergency it shall be the duty of each local emergency management agency to render assistance in accordance with the provisions of such mutual-aid agreements to the fullest possible extent.

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**58-2-113 Emergency management support forces or Mobile Reserve Unit.**

(a) TEMA is authorized to provide, within or out of the state, such support from available personnel, equipment, and other resources of state agencies and the political subdivisions of the state as may be necessary to reinforce emergency management agencies in areas stricken by emergency. Such support shall be rendered with due consideration of the plans of the Federal Government, this state, the other states, and of the criticalness of the existing situation. Emergency management support forces shall be called to duty upon order of TEMA and shall perform functions in any part of the state or, upon the conditions specified in this section, in other states.

(b) Personnel of emergency management support forces while on duty, whether within or out of the state, shall:

(1) If they are employees of the state, have the powers, duties, rights, privileges, and immunities, and receive the compensation, incidental to their employment.

(2) If they are employees of a political subdivision of the state, whether serving within or out of such political subdivision, have the powers, duties, rights, privileges, and immunities, and receive the compensation, incidental to their employment. The compensation shall be provided by and through the providing political subdivision.

(3) If they are not employees of the state or a political subdivision thereof, they shall be entitled to the same rights and immunities as are provided by law for the employees of this state and to such compensation as may be fixed by TEMA. All

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personnel of emergency management support forces shall, while on duty, be subject to the operational control of the authority in charge of emergency management activities in the area in which they are serving and shall be reimbursed for all actual and necessary travel and subsistence expenses to the extent of funds available.

**58-2-114 Government equipment, services, and facilities.**

In carrying out the provisions of this chapter, the Governor, the director of TEMA and the executive officers, or governing bodies of the political subdivisions of the state establishing local emergency management agencies, are directed to utilize the services, equipment, supplies and facilities of existing departments, offices, and agencies of the state and of the political subdivisions thereof to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies are directed to cooperate with and extend such services and facilities to the Governor or to the director and to the local emergency management agencies throughout the state upon request.

**58-2-115 Compensation.**

(a) Compensation for services or for the taking or use of property shall be owed only to the extent that a claimant may not be deemed to have volunteered his services or property without compensation and only to the extent that such taking exceeds the legal responsibility of a claimant to render such services or make such property so available.

(b) Compensation owed for personal services shall be only such as may be fixed by TEMA.

(c) Compensation for property shall be owed only if the property was commandeered or otherwise used in coping with an emergency and its use or



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destruction was ordered by the Governor or a member of the emergency forces of this state.

(d) Any person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall file a claim therefor with the agency in the form and manner that the agency provides.

(e) Unless the amount of compensation owed on account of property damaged, lost, or destroyed is agreed between the claimant and TEMA, the amount of compensation shall be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this state.

(f) Nothing in this section applies to or authorizes compensation:

(1) for the destruction or damaging of standing timber or other property in order to provide a firebreak;

(2) for damage resulting from the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood; or

(3) beyond the extent of funds available for such compensation.

**58-2-116 Emergency Management.**

(a) In addition to prevention measures included in the state and local comprehensive emergency management plans, the Governor shall consider, on a continuing basis, steps that could be taken to mitigate the harmful consequences of emergencies. At the Governor's direction, state agencies, including, but not limited to, those charged with responsibilities in connection with flood plain management, stream

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encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards, shall make studies of emergency mitigation-related matters. The Governor, from time to time, shall make such recommendations to the Legislature, local governments, and other appropriate public and private entities as may facilitate measures for mitigation of the harmful consequences of emergencies.

(b) The appropriate state departments or agencies, in conjunction with TEMA, shall continually study the plans, uses and construction of structures and other facilities and identify areas which are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence, manmade or natural. The studies under this subsection shall concentrate on means of reducing or avoiding the dangers caused by these occurrences or the consequences thereof.

(c) If TEMA believes, on the basis of the studies or other competent evidence, that:

(1) an area is susceptible to an emergency of catastrophic proportions without adequate warning;

(2) existing building standards and land use controls in that area are inadequate and could add substantially to the magnitude of the emergency; and

(3) changes in zoning regulations, other land use regulations, or building requirements are essential in order to further the purposes of this section,

the agency shall specify the essential changes to the Governor. If the Governor, upon review of the recommendation, finds, after public hearing that changes are essential, the

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Governor shall so recommend to the agencies or political subdivision with jurisdiction over the area and subject matter. If no action, or insufficient action, pursuant to the Governor's recommendations is taken within the time specified by the Governor, the Governor shall so inform the Legislature and request legislative action appropriate to mitigate the impact of such an emergency.

**58-2-117 Lease or loan of state property; transfer of state personnel.**

Notwithstanding any inconsistent provision of law:

(1) Whenever the Governor deems it to be in the public interest, the Governor may:

(A) Authorize any department or agency of the state to lease or lend, on such terms and conditions as it may deem necessary to promote the public welfare and protect the interests of the state, any real or personal property of the state government, to the President of the United States, the heads of the Armed forces of the United States, or the various federal emergency management agencies of the United States.

(B) Enter into a contract on behalf of the state for the lease or loan to any political subdivision of the state, on such terms and conditions as the Governor may deem necessary to promote the public welfare and protect the interests of this state, of any real or personal property of the state government, or the temporary transfer or employment of personnel of the state government to or by any political subdivision of the state.

(2) The governing body of each political subdivision of the state may:

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(A) Enter into such contract or lease with this state, accept any such loan, or employ such personnel, and such political subdivision may equip, maintain, utilize, and operate any such property and employ necessary personnel therefor in accordance with the purposes for which such contract is executed.

(B) Do all things and perform any and all acts which it may deem necessary to effectuate the purpose for which such contract was entered into.

**58-2-118 Orders and rules.**

(a) Upon being authorized by the Governor, TEMA, or other state department or agency, the political subdivisions of the state and other agencies designated or appointed by the Governor, or in the TEMP, are authorized and empowered to make, amend, and rescind such orders and rules as are necessary for emergency management purposes and to supplement the carrying out of the provisions of this chapter, but which are not inconsistent with any orders or rules adopted by an EMA or by any state agency exercising a power delegated to it by the governor or the agency.

(b) In order to attain uniformity so far as practicable throughout the country in measures taken to aid emergency management, all action taken under this chapter and all orders and rules made pursuant to such sections, shall be taken or made with due consideration of the orders, rules, actions, recommendations, and requests of federal authorities relevant thereto and, to the extent permitted by law, shall be consistent with such orders, rules, actions, recommendations, and requests.

**58-2-119 Enforcement.**

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It shall be the duty of every local emergency management agency established pursuant to this chapter, the officers and personnel thereof, to execute and enforce such orders, rules and regulations as may be made by the Governor under authority of this chapter. Each such organization shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under the Governor's authority.

**58-2-120 Penalties.**

In the event of an emergency declared pursuant to the provisions of this chapter, any person or representative thereof, violating any order, rule or regulation promulgated pursuant to this chapter, is guilty of a Class A misdemeanor.

**58-2-121 Liability.**

Any person, public or private, owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege or otherwise permits the designation by TEMA or the local emergency management agency for the use of the whole or any part of such real estate or premises for the purpose of sheltering persons during an actual, impending, mock, or practice emergency, together with such person's successor in interest, if any, shall not be liable for:

(1) The death of, or injury to, any person on or about such real estate or premises during the actual, impending, mock, or practice emergency, or

(2) Loss of, or damage to, the property of such person, solely by reason or as a result of such license, privilege, designation, or use, unless the gross negligence or the willful and wanton misconduct of such person owning or controlling

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such real estate or premises or such person's successor in interest is the proximate cause of such death, injury, loss, or damage occurring during such sheltering period.

**58-2-122 Liberality of construction.**

The provisions of this part shall be construed liberally in order to effectuate their purposes.

**58-2-123 Radiological emergency preparedness.**

**(a) PURPOSE AND INTENT.**

It is the purpose of this section to establish the means by which certain radiological emergency response plans and preparedness requirements of the United States Nuclear Regulatory Commission and the Federal Emergency Management Agency can be developed and tested by the state, the appropriate counties, and each operator licensed by the United States Nuclear Regulatory Commission to operate a commercial nuclear electric generating facility. It is the express intent of the Legislature that no department, commission, agency, or political subdivision of the state be considered to have assumed or be responsible for the funding of any activity or program required by this section from any sources of funds other than those specifically identified in this section.

**(b) DEFINITIONS.**

For the purposes of this section, the following terms shall have the meanings indicated:

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(1) "Facility" means a commercial nuclear electric generating reactor operated for the purpose of providing heat to produce electricity for sale to persons other than the owner of the facility.

(2) "Operator" means that person who has applied for or who has been granted a license by the United States Nuclear Regulatory Commission for the operations of a facility.

(3) "Appropriate county" means a county which is required by the United States Nuclear Regulatory Commission or the Federal Emergency Management Agency to be designated a risk or a host county.

(4) "Plans" means the radiological emergency response plans and preparedness in support of nuclear power plants requirements, including facilities and equipment, currently contained in Nuclear Regulatory Commission Regulation 0654 (NUREG-0654) and FEMA-Radiological Emergency Plan 1 (FEMA-REP-1) or as may be required by cognizant federal agencies in the future.

**(c) EMERGENCY RESPONSE PLANS.**

In addition to the other plans required by this chapter, TEMA shall develop, prepare, test, and implement as needed, in conjunction with the appropriate counties and the affected operator, such radiological emergency response plans and preparedness requirements as may be imposed by the United States Nuclear Regulatory Commission or the Federal Emergency Management Agency as a requirement for obtaining or continuing the appropriate licenses for a commercial nuclear electric generating facility.

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**(d) POWERS AND DUTIES.**

In implementing the requirements of this section, the director of the agency or the director's designated representative, shall:

(1) Negotiate and enter into such additional contracts and arrangements among the agency, appropriate counties, and each operator to provide for the level of funding and the respective roles of each in the development, preparation, testing, and implementation of the plans.

(2) Evaluate and determine the adequacy of the plans based upon consultations with the United States Nuclear Regulatory Commission and other agencies, as appropriate, and upon the results of such tests as may be conducted.

(3) Limited to such funding as is available based upon the requirements of subsection (d)(5), require the participation of appropriate counties and operators in the development, preparation, testing, or implementation of the LANs as needed.

(4) Determine the reasonableness and adequacy of the provisions, terms, and conditions of the plans and, in the event the appropriate counties and the operators cannot agree, resolve such differences and require compliance by the appropriate counties and the operators with the plans. In resolving such differences, the director shall consider:

(A) The requirements and parameters placed on the operators by federal law and agencies;

(B) The reasonableness and adequacy of the funding for appropriate counties from any sources of funds other than local revenue sources; and



**Senate State & Local Government Committee Amendment No. 1**

**Amendment No. 1 to SB3172**

**Cohen**  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 3172**

**House Bill No. 2365\***

(C) The reasonableness and appropriateness of the costs to the appropriate counties likely to be incurred in complying with provisions, terms and conditions of the plans.

(5) Receive, expend, and disburse such funds as are made available by each licensee pursuant to this section.

(6) Limited to such funding as is available based upon the requirements of subsection (e), coordinate all activities undertaken pursuant to this section or required of appropriate counties and operators by any federal or state agency.

(e) FUNDING.

All funds for the implementation of this section shall be provided by the operators as required by subsection (d), except that operators may enter into bilateral agreements with other state agencies or appropriate counties when necessary. No political subdivision of the state shall be considered to have obligated or consented to have obligated any funds from any local revenue source whatsoever by complying with the provisions of this section.

SECTION 2. Tennessee Code Annotated, Title 58, Chapter 2, is further amended by redesignating present part 2 as a new part 5 and by redesignating present part 3 as a new part 6.

SECTION 3. This act shall take effect July 1, 2000, the public welfare requiring it.